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HIGHLY MIGRATORY FISH STOCKS
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LETTER DATED 26 JULY 1993 FROM THE ALTERNATE CHAIRMAN OF THE DELEGATION OF THE RUSSIAN FEDERATION ADDRESSED TO THE CHAIRMAN OF THE CONFERENCE

The annex to this letter contains a document prepared by the delegation of the Russian Federation setting forth the position of the Russian Federation on the main provisions of the regime relating to straddling fish stocks.

The Russian delegation is of the view that, as a consequence of specific biological features and differences in the legal regulations, there are also differences in the regimes relating to straddling fish stocks and highly migratory fish stocks, which are reflected in the 1982 United Nations Convention on the Law of the Sea. At the same time, this does not mean that particular provisions of the two regimes may not coincide. Consequently, a number of the principles and provisions contained in the attached document are also applicable to highly migratory fish stocks.

I should be grateful if this letter and its annex could be circulated as a document in the "L" series.

(Signed) V. K. ZILANOV
Alternate Chairman of the
delegation of the Russian
Federation to the Conference

ANNEX

Main provisions of the regime relating to straddling fish stocks

(Submitted by the delegation of the Russian Federation)

The Russian Federation is of the view that one of the main tasks which the Conference is mandated to perform is the elaboration of recommendations aimed at solving existing problems related to the conservation and rational utilization of straddling fish stocks, as well as to means of improving cooperation between States in the area of fishing.

From the corresponding provisions of the 1982 United Nations Convention on the Law of the Sea and from fishing practices in different areas of the world's oceans it is clear that straddling stocks are taken to mean those fish stocks which reproduce and spend the greater part of their life cycle within the 200-mile exclusive economic zone and which may temporarily migrate beyond this zone into adjacent areas, as well as species whose natural habitat area includes both the 200-mile zone and the adjacent area. Accordingly, provisions concerning the conservation of such stocks in areas adjacent to exclusive economic zones are included in Part V of the Convention, dealing with the regime of the exclusive economic zone.

This interpretation of straddling stocks was also confirmed in decisions by the United Nations Conference on Environment and Development, held in Rio de Janeiro from 3 to 14 June 1992. Chapter 17 of resolution 1 of that Conference states, in particular, that action by States whose nationals and vessels fish on the high seas, as well as cooperation at the bilateral, subregional, regional and global levels, is essential particularly for highly migratory species and straddling stocks.

In addition, migratory fish stocks form part of a single coastal ecosystem and their conservation must be carried out along unified principles, both within the 200-mile exclusive economic zone and in adjacent areas, and their rational utilization is particularly important in providing food and employment for the population of coastal communities.

The Russian Federation also takes due account of the special legal regime applicable to enclosed or semi-enclosed seas, noting that fish stocks in the high-seas enclaves of a number of enclosed or semi-enclosed seas, in particular, the Sea of Okhotsk and the Bering Sea, have been significantly reduced in recent years as a result of wide-scale unscientific and unregulated fishing by vessels of the coastal States and are now endangered, creating an urgent need for immediate and effective measures for their protection and restoration.

I. Principles and main provisions of the regime

In view of the foregoing, the Russian Federation believes that consideration at the Conference of the issue of the ccnservation and rational utilization of straddling fish stocks should be based on the following principles:

(1) The principle of the unity and inseparability of the straddling fish stocks which form part of the ecosystem of various areas of the world's oceans;

(2) The principle of responsible fishing, which includes, in particular, the conduct of fishing only on the basis of accurate scientific data, measures to manage the ecosystem of the sea's living resources which take into account the biodiversity of stocks and their interdependence and the precautionary approach to conservation and management;

(3) The principle of the stable and long-term development of the fisheries of coastal communities, while keeping the ecosystems intact.

In the light of these principles, the regime for the conservation and rational utilization of straddling stocks would have to include the following basic provisions:

1. The conservation and rational utilization of straddling fish stocks shall be ensured by the coastal State (or States) and other interested States on the basis of bilateral agreements or through the corresponding subregional or regional organizations.

2. The total allowable catch for the straddling stocks of a given region and annual catch quotas for each species of straddling fish shall be established by the coastal and other interested States on the basis of bilateral agreements or by the corresponding regional organization at the request of the coastal States.

3. For the purpose of improving monitoring of the status of straddling stocks and adopting timely measures to prevent their depletion, the coastal States and States with an interest in fishing areas of the high seas adjacent to the economic zones of coastal States must conclude agreements on the establishment of a system for the monitoring of the straddling fish stocks of these seas. These agreements should, inter alia, make provision for:

(a) The conduct by all participants of joint scientific research aimed at providing an accurate assessment of the status of the straddling stocks and the extent of their exploitation by the coastal States, including by fishermen from coastal communities, as well as by other States, and also the participation in this research, where necessary, of competent international organizations and independent international experts;

(b) The duty of each participant to transmit to any other participant, at the latter's request, full data on the status of stocks, catches and fishing effort relating to straddling stocks over any given period.

4. States shall adopt legislative and administrative measures to ensure compliance with internationally agreed regulations relating to the conservation and rational utilization of straddling fish stocks. These measures shall include, in particular, the licensing of vessels flying their flags to fish such stocks on the high seas.

Surveillance and monitoring of compliance with the internationally agreed regulations shall be conducted both by national and international inspectors.

Penalties for the violation of these regulations shall be enforced by the flag State and should be commensurate with the violation concerned.

5. States shall endeavour to settle disputes relating to the conservation and rational utilization of straddling stocks by the peaceful means specified in Article 33, paragraph 1, of the Charter of the United Nations.

If they fail to settle their dispute within a reasonable period of time by the means referred to above, the dispute shall, at the request of one of the parties, be submitted for prompt consideration by the special arbitral tribunal established in accordance with the provisions of Annex VIII of the 1982 United Nations Convention on the Law of the Sea. The decision of such an arbitral tribunal shall be binding. Such arbitral procedures may also be established at the regional level.

II. Special characteristics of the high-seas enclaves of enclosed and semi-enclosed seas

In view of the fact that high-seas enclaves occupying small areas within enclosed and semi-enclosed seas in fact lie across the migration routes of certain fish species exclusive to the coastal States, the basic provisions of the regime for the conservation and rational utilization of such fish stocks of enclosed and semi-enclosed seas should, in the view of the Russian delegation, be based not only on articles 63 and 123, but also on articles 61 and 62 of the 1982 United Nations Convention on the Law of the Sea.

Accordingly, the coastal States of enclosed or semi-enclosed seas should independently determine the total allowable catch for all fish stocks in these seas and should establish annual catch quotas for each species.

Where the total allowable catch for the commercial stocks of enclosed or semi-enclosed seas is not fully utilized by the coastal States, other interested States shall be given access to the surplus of the total allowable catch of these stocks on the basis of bilateral agreements between the coastal States and the other interested States. Priority in the allocation of quotas shall be given to developing countries and States of a region whose fishermen have traditionally fished in this area.

These agreements shall include, inter alia, the following provisions:

(a) The duties of the parties to ensure that fishing activities in the high-seas enclave are not detrimental to the resources of the economic zones surrounding this enclave, or to the ecosystem and environment;

(b) Quotas and other restrictions on fishing activities;

(c) Means of identifying vessels and fishing gear;

(d) The standardization of vessel and fishing-gear markings;

(e) A system for the monitoring, inspection and surveillance of fishing vessels;

(f) Measures to enforce compliance with agreements, including measures established by international law in respect of illegally flagged vessels, vessels which conceal their nationality or vessels reflagging at sea.